

Mail Stop Interference
P.O. Box 1450
Alexandria, VA 22313-1450
Tel: 571-272-4683
Fax: 571-273-0042

Paper 1
Filed: 19 August 2010

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

SHLOMO BEN-HAIM, NISSIM DARVISH,
YUVAL MIKA and MAIER FENSTER
Junior Party
(Patent 6,463,324),

v.

MORTON M. MOWER
Senior Party
(Application 10/053,750).

Patent Interference No. 105,768 (SCM)
(Technology Center 3700)

DECLARATION – Bd.R. 203(b)¹

1 **Part A. Declaration of interference**

2 An interference is declared (35 U.S.C. § 135(a)) between the above-
3 identified parties. Details of the application(s), patent (if any), reissue

¹ “Bd.R. x” may be used as shorthand for “37 C.F.R. § 41.x”. 69 Fed. Reg. 49960, 49961 (12 Aug. 2004).

1 application (if any), count(s) and claims designated as corresponding or as not
2 corresponding to the count(s) appear in Parts E and F of this DECLARATION.

3 **Part B. Judge managing the interference**

4 Administrative Patent Judge Sally C. Medley has been designated to
5 manage the interference. Bd.R. 104(a).

6 **Part C. Standing order**

7 A Trial Section STANDING ORDER [SO] (Paper 2) accompanies this
8 DECLARATION. The STANDING ORDER applies to this interference.

9 **Part D. Initial conference call**

10 A telephone conference call to discuss the interference is set for **1:30 p.m.**
11 **on 12 Oct. 2010** (the Board will initiate the call).

12 No later than **four business days** prior to the conference call, each party
13 shall file and serve (SO ¶¶ 10.1 & 105) a list of the motions (Bd.R. 120;
14 Bd.R. 204; SO ¶¶ 104.2.1, 120 & 204) the party intends to file.

15 A sample schedule for taking action during the motion phase appears as
16 Form 2 in the STANDING ORDER. Counsel are encouraged to discuss the
17 schedule prior to the conference call and to agree on dates for taking action. A
18 typical motion period lasts approximately eight (8) months. Counsel should be
19 prepared to justify any request for a shorter or longer period.

1 **Part E. Identification and order of the parties**

2 Junior Party

3 Named Inventors: SHLOMO BEN-HAIM, Haifa, Israel
4 NISSIM DARVISH, Haifa, Israel
5 YUVAL MIKA, Haifa, Israel
6 MAIER FENSTER, Petachtikva, Israel

7 Involved Patent: Patent 6,463,324, issued 08 Oct. 2002, based on
8 Application 09/254,900, filed 12 March 1999
9 and Re-examined per application 90/008312,
10 filed 1 November 2006, certificate issued 29
11 April 2008.

12 Title: CARDIAC OUTPUT
13 ENHANCED PACEMAKER

14 Assignee: MEDINVEST CAPITAL S.A R.L.
15

16 Senior Party

17 Named Inventors: MORTON M. MOWER, Baltimore, MD

18 Involved Application: Application 10/053,750, filed 21 Jan. 2002.

19 Title: AUGMENTATION OF ELECTRICAL
20 CONDUCTION AND CONTRACTILITY
21 BY BIPHASIC CARDIAC PACING
22 ADMINISTERED VIA THE CARDIAC
23 BLOOD POOL

24 Assignee: MR3 MEDICAL, LLC
25
26

27 The senior party is assigned exhibit numbers 1001-1999. The junior party
28 is assigned exhibit numbers 2001-2999. Bd.R. 154(c)(1); SO ¶ 154.2.1. The
29 senior party is responsible for initiating settlement discussions. SO ¶ 126.1.

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26

2

3

5

6

7

8

9

11

12

13

14

16

17

20

22

24

26

1 App. 08/699,552, filed 19 Aug. 1996, now
2 Patent 5,871,506, issued 16 Feb. 1999.
3
4

5 **Part G. Heading to be used on papers**

6 The following heading must be used on all papers filed in this
7 interference, see SO ¶ 106.1.1:

8 UNITED STATES PATENT AND TRADEMARK OFFICE
9

10 BEFORE THE BOARD OF PATENT APPEALS
11 AND INTERFERENCES
12

13 SHLOMO BEN-HAIM, NISSIM DARVISH,
14 YUVAL MIKA and MAIER FENSTER
15 Junior Party
16 (Patent 6,463,324),

17 v.

18 MORTON M. MOWER
19 Senior Party
20 (Application 10/053,750).
21

22 Patent Interference No. 105,768 (SCM)
23 (Technology Center 3700)
24

Part H. Order form for requesting file copies

When requesting copies of files, use of SO Form 4 will greatly expedite processing of the request. Please attach a copy of Parts E and F of this DECLARATION with a hand-drawn circle around the patents and applications for which a copy of a file wrapper is requested.

/Sally C. Medley/
Administrative Patent Judge

Enc:

Copy of STANDING ORDER
Copy of Patent 6,463,324
Copy of claims of Application 10/053,750
Copy of Patent 6,341,235
Copy of Patent 6,136,019
Copy of Patent 5,871,506

1 cc (via overnight delivery):

2 Attorney for Ben-Haim:

3 Cozen O'Connor
4 277 PARK AVENUE
5 20th FLOOR
6 NEW YORK, NY 10172

7 William H. Dippert
8 ECKERT SEAMANS CHERIN & MELLOTT, LLC
9 U.S. STEEL TOWER
10 600 GRANT STREET, 44th FLOOR
11 PITTSBURGH, PA 15219

12

13 Attorney for Mower:

14 The Marbury Law Group, PLLC
15 11800 SUNRISE VALLEY DRIVE
16 SUITE 1000
17 RESTON, VA 20191